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Executive Secretary

17 June 86

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**THE WHITE HOUSE  
WASHINGTON**

**CONFIDENTIAL**

**CABINET AFFAIRS STAFFING MEMORANDUM**

Executive Registry

86- 2656x

**Date:** 6/10/86 **Number:** 317, 135 **Due By:**                     

**Subject:** Economic Policy Council Meeting - June 13, 1986

11:00 A.M. Roosevelt Room

ALL CABINET MEMBERS	Action	FYI		Action	FYI
Vice President	<input type="checkbox"/>	<input type="checkbox"/>	CEA	<input checked="" type="checkbox"/>	<input type="checkbox"/>
State	<input checked="" type="checkbox"/>	<input type="checkbox"/>	CEQ	<input type="checkbox"/>	<input type="checkbox"/>
Treasury	<input checked="" type="checkbox"/>	<input type="checkbox"/>	OSTP	<input type="checkbox"/>	<input type="checkbox"/>
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Justice	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
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Commerce	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Svahn	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Labor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Chew (For WH Staffing)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
HHS	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
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Transportation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
Energy	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
Education	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
Chief of Staff	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
OMB	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Executive Secretary for:		
<u>CIA</u>	<input type="checkbox"/>	<input type="checkbox"/>	DPC	<input type="checkbox"/>	<input checked="" type="checkbox"/>
UN	<input type="checkbox"/>	<input type="checkbox"/>	EPC	<input checked="" type="checkbox"/>	<input type="checkbox"/>
USTR	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
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VA	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

**REMARKS:**

The Economic Policy Council will meet on Wednesday, June 11, 1986 at 10:00 A.M. in the Roosevelt Room.

The agenda and background papers are attached for your information.

**RETURN TO:**

☒ Alfred H. Kingon  
Cabinet Secretary  
456-2823  
(Ground Floor, West Wing)

☐ Don Clarey  
☐ Rick Davis  
☐ Ed Stucky

Associate Director  
Office of Cabinet Affairs  
456-2800 (Room 235, OEOB)

**THE WHITE HOUSE**

**WASHINGTON**

**June 10, 1986**

**MEMORANDUM FOR THE ECONOMIC POLICY COUNCIL**

**FROM:** EUGENE J. McALLISTER *EM*  
**SUBJECT:** Agenda and Papers for the June 11 Meeting

The agenda and papers for the June 11 meeting of the Economic Policy Council are attached. The meeting is scheduled for 10:00 a.m. in the Roosevelt Room.

The first agenda item will be a discussion of our GATT objectives. A revised version of the paper circulated last week is attached.

The second agenda item will be a report from the Strike Force on Trade. The Strike Force has developed several recommendations for the Council's consideration. A paper describing these recommendations is attached.

In addition, Ambassador Yeutter has asked that the Council briefly discuss recent developments in the Brazilian informatics Section 301 case. There is no paper for this item.

Secret and Confidential Attachments

**THE WHITE HOUSE**  
**WASHINGTON**

**ECONOMIC POLICY COUNCIL**

**June 11, 1986**

**10:00 a.m.**

**Roosevelt Room**

**AGENDA**

- 1. GATT Objectives**
- 2. Report of the Strike Force on Trade**

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THE UNITED STATES TRADE REPRESENTATIVE  
WASHINGTON  
20508

June 9, 1986

MEMORANDUM

TO: THE ECONOMIC POLICY COUNCIL

FROM: THE TRADE POLICY REVIEW GROUP

SUBJECT: U.S. Objectives and Strategic Considerations for the  
New Round of Multilateral Trade Negotiations

Issue

The GATT Preparatory Committee (PrepCom) for the New Round has reached a critical stage in its work. It has reviewed the thirty-odd issues proposed for inclusion in the new trade talks and is now drafting the declaration that Ministers will approve in September at a meeting in Uruguay to launch the new round.

The purpose of this paper is to:

- update the EPC on the PrepCom's work;
- reaffirm the U.S. objectives for the negotiations;
- clarify key current strategic and tactical considerations; and
- outline next steps.

The appendix describes key issues of interest to the U.S. and specific negotiating objectives we want to achieve for each issue. Additional issues proposed by other countries may also be acceptable to the U.S., but do not warrant EPC consideration at this point.

It is anticipated that the EPC will review our new round strategy and tactics, once the PrepCom has completed its work in mid-July and prepared a draft ministerial declaration. If necessary, the EPC could discuss the issue again just prior to the Ministerial meeting in September.

Background

-- Since the decision of the GATT Contracting Parties in November, the Preparatory Committee has met six times and set

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out an intensive schedule of meetings through mid-July. At that time, the Committee is to make recommendations, in the form of a ministerial declaration, on the objectives, subject matter and organizational details for the new round, as well as participation in it. The recommendations will be forwarded for action to Ministers, who will meet in Punta del Este, Uruguay during the week of September 15. We expect the Ministers will adopt the declaration and formally open the new trade talks.

## U.S. Objectives for the New Round

-- We have four basic objectives for the new round. They are to:

- o seek trade liberalization as a means to increase global economic growth and to create expanded export opportunities for competitive American producers;
- o resist new protectionist measures and eliminate those now in place around the world;
- o strengthen and expand the rules of the trading system, including those that are currently deficient (such as agriculture and safeguards) and to develop new rules to deal with the increasingly important areas of international trade (such as intellectual property, investment and services); and
- o strengthen the GATT as an institution to make it relevant to the problems of today's trading environment and capable of dealing with those of the future as they arise.

-- These objectives are necessarily interrelated and, to be successful, we have to achieve all four.

## Strategic Considerations

There are a number of strategic questions which must be resolved before the September ministerial meeting.

### 1. What are our priorities for the new round?

-- We face an uphill battle to get agreement -- not to mention agreement in September -- on the early launching of the new round which will be based on the agenda we have advocated. Nonetheless, the agenda for the negotiations must be both ambitious and comprehensive if we are to achieve meaningful agreements and lasting results. We must insist on the inclusion of key issues of principal importance to the U.S. (See appendix.)

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-- Does the EPC agree that establishing a rank ordering of issues for inclusion on the negotiating agenda is one trap we should avoid?

- o Setting priorities would, by definition, single out certain items for priority treatment in the negotiations. Given the state of the trading system today, progress on all issues is critical.

- o The identification of priorities could limit the agenda, and thereby jeopardize inclusion of items of importance to us. A negotiating agenda that failed to include agriculture or services, for example, would be clearly inadequate.

- o The negotiating agenda also must reflect the interests of all countries. It will be difficult to encourage broad participation in the negotiations if the agenda is not balanced and the talks do not proceed on all subjects simultaneously. (It should be noted that balancing the agenda may require mention of certain items in the Ministerial declaration that are not critical to us, such as restrictive business practices.)

- o The rank ordering of issues at this stage also might limit our flexibility to introduce additional subjects, as appropriate, during the course of the negotiations.

-- From the domestic point of view, continuing private sector support is conditioned on the inclusion of issues of interest to particular industries or groups. It is, therefore, critical at the outset of the negotiations to ensure, to the greatest extent possible, that the agenda encompasses all issues of interest to our domestic constituents.

-- Although we want a comprehensive agenda and negotiations that proceed on all subjects simultaneously, we want to have meaningful results as soon as possible. It may be feasible to conclude agreements or interim understandings on certain issues in advance of others. This may be particularly true with issues that have long been the subject of debate and negotiation in the GATT, such as agriculture and safeguards. However, our desire to reach early agreement should not be misinterpreted as an implied higher priority for these issues.

## 2. What is our position on standstill/rollback?

-- To set a positive tone for the start of the negotiations and lend credibility to the process, a number of developed and

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developing countries support a political-level commitment by trade ministers to a "standstill and rollback" of protectionist measures. Proposals now under discussion in Geneva call for trade ministers to: 1) commit their governments at the start of the negotiations (presumably at the Ministerial meeting in September) not to introduce new protectionist measures, and to 2) progressively dismantle existing trade restrictions during the course of the negotiations.

-- A standstill/rollback pledge is essentially a political, not a legal, commitment. Countries would obtain no additional GATT rights by accepting the commitment. In the event we violated it (for example, by extension of the manufacturing clause), we would face retaliation by affected countries, just as we would without a standstill/rollback commitment. However, if we violated the commitment in a massive or repeated way, the negotiations would almost certainly come to a halt, given the importance that numerous GATT countries attach to a meaningful standstill and rollback pledge.

-- To be acceptable to the U.S., the standstill/rollback commitment must be undertaken by all other GATT members, whether developed or developing. The terms must be defined as precisely as possible.

-- "Standstill" should cover new measures only, so that the extension of existing measures or the introduction of new measures under an existing program would not violate the commitment. The commitment would not be honored if old, discretionary measures were made more restrictive. We cannot accept any constraint on the application of U.S. trade law (including changes in sugar quotas or meat VRAs), nor limitations on our rights under international law, as part of the "standstill" commitment.

- o Section 201, antidumping, countervailing duty and national security measures would be excluded from the standstill commitment; we would be free to act in accordance with our GATT rights in these areas;

- o Section 301 cases would be excluded from the standstill commitment, provided GATT dispute settlement procedures are followed where GATT disciplines exist. (FYI. To retaliate against unfair foreign trade practices without GATT authorization, such as we did recently against the EC on citrus and enlargement, would be inconsistent with such a commitment. END FYI);

- o However, the U.S. cannot allow a trading partner to delay or stonewall dispute settlement proceedings; should this occur, we will not be bound by the standstill commitment. Where the GATT is not relevant (such as on intellectual property, investment or services), or where

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the party in question is not a GATT member, we will proceed as usual under Section 301.

o With respect to retaliation under Section 301, we cannot accept a standstill commitment that would limit our leverage to act; we must have flexibility to retaliate against unfair foreign trade practices now outside GATT disciplines, such as intellectual property, with measures on goods.

-- The "standstill" commitment must be closely linked with a credible program to "roll back" existing trade restrictions that are not maintained under the GATT system or under GATT auspices. (This would exclude measures that are consistent with the Multifiber Arrangement.)

-- "Rollback" would entail:

o a commitment to eliminate GATT-illegal measures or bring them into conformity with GATT disciplines; and

o a commitment to phase-out grey-area measures or bring them into conformity with GATT disciplines, perhaps on a schedule that goes beyond the end of the round. Any phase-out agreement would have to contain elements of degressivity.

o alleged GATT-illegal or inconsistent measures that are determined to have a GATT cover would not be subject to a rollback commitment; rather, they would be the subject of negotiations elsewhere in the new round.

-- Acceptance of such a rollback commitment would not prohibit the exercise of U.S. law or U.S. rights under the GATT. Our trading partners would be obligated to eliminate GATT illegal measures, and we would have the opportunity to negotiate the elimination of grey-area measures.

-- Is the EPC prepared to accept a standstill/rollback commitment drawn along these lines, provided our trading partners did the same?

### 3. What should our position be on providing favored treatment for LDCs in the new round?

-- Developing countries have pressed for inclusion in the ministerial declaration of a commitment by developed countries to grant LDCs special and more favorable treatment in every phase of the negotiations. We believe this is an unnecessary objective for the negotiations.

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-- We recognize the principles for special treatment contained in Part IV of the GATT and do not intend to rewrite them; rather, our concern is with their appropriate application. In order for any reference to special treatment for LDCs to be acceptable to us, we have to reach agreement to close the giant loopholes that prevent the advanced developing countries from any meaningful discipline over their trade practices and "graduate" these countries from special status.

-- We anticipate that this issue will be a major bone of contention over the next few months. We are likely to come under increasing pressure from a number of our developed country trading partners to cave early on this point. Is the EPC agreed that a critical new round objective for us is to substantially reduce the level of special GATT treatment that the most advanced and internationally competitive developing countries receive?

4. How should we deal with trade-offs among issues?

-- This round will focus on developing more effective and enforceable rules with respect to government policies and practices affecting trade. As far as practicable, we seek self-contained agreements, where the "concessions" countries make are acceptance of new, higher standards of disciplines over their trade-distorting practices.

-- An essential element of the negotiations will be to strengthen the GATT as an institution. This includes not only measures to improve its internal operations, such as dispute settlement, but also steps to enhance the GATT's stature in the international community vis-a-vis the IMF and World Bank. Such institutional reforms would bolster the credibility of the GATT, and are, therefore, in each country's self-interest.

-- There will be far less emphasis on the traditional exchanging of tariff concessions than in previous rounds, primarily because tariff levels are generally low and pose less significant trade distortions. However, we do have some important market access objectives that will require the reduction of foreign tariffs, as well as some of our own.

-- From a domestic point of view, we envision many difficulties with the inevitable trade-offs that will arise in the course of the negotiations. Is the EPC agreed that, to the greatest extent possible, our negotiators should seek to minimize trade-offs between different areas of the negotiations?

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**5. Negotiating Authority**

-- Although there are a number of important trade legislation questions that will have a bearing on our ability to negotiate comprehensive and meaningful agreements in the new round, one strategic question for EPC consideration is the kind of authority we desire to enable us best to negotiate reductions in both non-tariff and tariff barriers as part of the new round.

-- With respect to non-tariff barriers, our current authority under Section 102 of the Trade Act of 1974 allows us to negotiate non-tariff agreements and bring them back to Congress for "fast-track" approval until January 3, 1988. Since we are not likely to complete all new round negotiations by then, an extension of that provision under acceptable conditions this year would allow us to immediately begin to negotiate reciprocal reductions on non-tariff barriers. Is the EPC agreed that "fast-track" authority on essentially a permanent basis would help us achieve our objectives in the area of non-tariff barriers?

-- On the tariff side, the Administration has no authority to negotiate reductions in tariff levels, either in the new round or in other negotiating fora. As noted above, we do not expect tariffs to be a major element of the new round. Nevertheless, our private sector advisors have identified a number of important objectives to be achieved in the tariff area, such as reducing high foreign tariffs on a number of diverse products in addition to binding the currently unbound tariffs of many developing and a few developed countries. (See market access section of the Appendix.)

-- In the course of opposing HR-4800, we argued for an extension of the expired Presidential authority to proclaim tariff reductions (Section 101 of the Trade Act of 1974) with no exceptions by product or sector. We have since had indications from Congressional contacts that this will be extremely difficult to obtain. Alternatively, does the EPC agree that we should:

- o seek time-limited (3-4 year) tariff cutting authority on the same fast-track approval basis as non-tariff authority;
- o avoid an across-the-board formula for all tariff reductions made in the negotiations; and
- o negotiate tariff cuts on the basis of requests from trading partners for reductions in duties?(We would endeavor to make no offers of our own in order to allay the concerns of sensitive U.S. industries.)

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**Tactical Considerations**

To ensure the successful conclusion of the PrepCom's work between now and mid-July and a successful launch of the new round in September, we must focus on a number of tactical issues.

**1. How do we counter those who argue for two Ministerial meetings?**

-- We have reports that certain countries, including some in the EC and Brazil, have quietly suggested in Geneva that "conditions may not be right" for the ministers to launch the new round in September, and that a second Ministerial meeting (presumably next year) would be required. This is purely a stalling tactic, which we need to counter.

-- The CP's decision last November clearly states that the ministers, acting on the PrepCom's recommendations, will adopt a program for the negotiations in September. The President has personally pressed for an early start for the negotiations at the past three Economic Summits.

-- Is the EPC agreed that, the U.S. should reject proposals for two ministerial meetings to launch the new round? If so, EPC members should use all international economic and political contacts to press our arguments for a single, decisive meeting in September. USTR will coordinate a program of high-level demarches to make clear that if ministers fail to launch new negotiations at that time, the U.S. will pursue unilateral, bilateral or plurilateral measures to resolve trade problems.

**2. How do we address the "Japan problem" in the new round?**

-- The Japanese have been very supportive of the new round and have actively participated in the multilateral preparatory process. They are particularly vocal on the need for negotiations on trade in services and intellectual property.

-- Nonetheless, access to the Japanese market is vitally important to the U.S. It is an equal concern of many other GATT members, some of whom have not attempted to penetrate the Japanese market but see future opportunities there.

- o Japan's restrictions on agricultural imports are among the most stringent in the world;

- o Japan imports a disproportionate share of total LDC manufactured exports (7% versus 64% by the U.S. and 24% by the EC); and

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o as a share of GNP, Japan's level of manufactured imports is not only the lowest for all industrial countries, but is declining. Their share dropped from 2.29% in 1980 to 2.16% in 1985.

-- Many of our trading partners would like to join us in using the new round to make the multilateral case for meaningful market-opening actions by Japan. The EC spokesman in Geneva has put down a marker that the Community will not negotiate without assurances that Japan will make market-opening concessions in the new round. That theme has been reiterated by various member states, as well as other GATT Contracting Parties in bilaterals and other fora.

-- Is the EPC agreed that we also expect a significant improvement in access to the Japanese market as a result of the new round? If so, how should we pursue this issue?

3. What should be our position on textiles in the PrepCom and the new round?

-- Last February, the President approved a strategy for renegotiating the multifiber arrangement on a fast-track to ensure that a renewed MFA is in place prior to the start of the new round. Negotiations in Geneva are proceeding more slowly than anticipated, however. As a worst case, we may face the prospect of entering the Ministerial without a renewed MFA. At the same time in the PrepCom setting, numerous LDCs have pressed for concessions on textiles -- or at least agreement to negotiate textile trade liberalization -- as a prerequisite to the new round.

-- Given our position on the need for an ambitious and comprehensive agenda for the new round, it is difficult for us to argue that textiles should be excluded from the negotiating agenda. The question comes down to largely one of timing.

-- The EPC should be aware that there is some discussion in Geneva that the price for launching the new round in September may be agreement to include textiles in the talks. Obviously, this is a decision that should not be made until the last possible moment in September -- well after we deal with the veto override effort on the textiles bill and after we have a clearer picture of Hill action on trade legislation.

-- Is the EPC agreed that, if textiles must be included on the new round agenda, we should seek to avoid any prejudice to the substantive treatment of the issue pending renewal of the MFA?

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**4. How do we press our substantive case most effectively between now and September?**

-- As noted above and outlined in the Appendix, we have proposed an ambitious agenda for the new round. We have mounted campaigns to educate our trading partners on some "new" issues of critical importance to us -- investment and intellectual property. These issues were pursued through various demarches in capitals, Washington and Geneva.

-- What additional steps should we take between now and September to:

- o clarify our position on the various items on the U.S. negotiating agenda;
- o continue to "sell" our ideas internationally; and
- o convince the Congress to support an aggressive and ambitious new round agenda?

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## APPENDIX

### Specific Negotiating Issues of Interest to the U.S.

#### 1. Agriculture

-- Developing meaningful discipline over trade in agriculture is an imperative objective for the U.S. and the vast majority of GATT members. The EC, as was the case in the Tokyo Round, is doing its best to restrict the nature of negotiations on agriculture and to slow all progress. Nonetheless, the Community is the source of many of our problems with agricultural trade and we should not be dissuaded by their foot-dragging.

-- We seek to bring agriculture under effective trading rules and disciplines by eliminating import restrictions on agricultural products, treating agricultural export subsidies no differently than subsidies for industrial products, and eliminating other barriers to market access in both developed and developing countries.

-- We should not address agricultural problems exclusively in an agricultural group. Rather, we seek to address problems in agricultural trade in all relevant areas of the negotiations -- be it in a group dealing with subsidies, or market access -- so that no participant will be able to block progress on this issue of vital importance to U.S. export interests.

#### 2. Safeguards and Other Temporary Import Measures

-- For a large number of GATT members, including the U.S., it is essential to reach a comprehensive agreement over the use of safeguard actions, that is emergency actions taken by governments to protect domestic industries from an influx of imports, thereby giving them time to adjust to competition. Most current safeguard practices have little to do with the disciplines of the GATT.

-- We seek to develop a comprehensive agreement disciplining the use of all safeguard actions, including voluntary restraint agreements and orderly marketing arrangements. Such actions should be temporary, transparent, degressive, and contribute to -- not retard-- adjustment, without shifting the burden of that adjustment on to other trading countries.

-- Comparable rules also must be developed to discipline all temporary measures taken by developing countries to restrain

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imports, such as the exemptions available to developing countries under the GATT rules for infant industry and balance-of-payments measures. This is an area where GATT rules are particularly lax.

### 3. Review of GATT Articles and Tokyo Round Agreements

-- Not surprisingly, the first effort to negotiate meaningful international disciplines over non-tariff barriers during the Tokyo Round was not perfectly satisfactory. What we need to do now is build on our experience with the codes over the past six years, expand participation, update certain provisions, and strengthen and improve their operation. We want to give particular attention to the standards, government procurement, aircraft and subsidies codes.

-- Negotiations on improvements to the codes do not necessarily have to be part of the new round, but rather could continue on their present track and be implemented before the new round is completed. At the same time, the broad negotiations might provide leverage for completing certain aspects of the code improvements, for example expanding entity coverage for the Government Procurement Code.

-- The U.S. should support a review of GATT articles as part of the negotiations. We would welcome improvements in certain provisions, such as Article XVII which stipulates that government trading entities should act in accordance with commercial considerations and GATT principles of non-discrimination. Such reviews should be undertaken with the aim of making these rules operational and enforceable.

### 4. Intellectual Property Protection

-- A key issue of interest to many in the private sector is negotiation of a code on intellectual property similar to the codes negotiated in the Tokyo Round.

-- We have proposed that our trading partners join us in developing such a GATT code, which would supplement existing international conventions, and ensure that measures taken to protect intellectual property do not distort international trade flows. We envision the code will have several elements, including binding provisions on transparency of regulations, notification, dispute settlement, and address the aspects of those conventions that need strengthening.

-- One element of the negotiation of intellectual property should be to complete the work begun during the last round on a code to deter the importation of counterfeit trademarked merchandise.

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## **5. Investment Issues**

-- Existing GATT disciplines cover trade but not investment distortions. Yet, the effect of government investment policies can be as distorting as any other non-tariff barrier. We, therefore, seek agreement on specific disciplines over government investment policies and measures.

-- A maximal approach would call for inclusion of the broad investment issue on the new round agenda, with a view toward developing an agreement or separate code with binding provisions governing national treatment, right of establishment, transparency of regulations, notification, and dispute settlement.

-- A number of countries have suggested that the U.S. is being too ambitious by suggesting that all investment measures be brought under GATT discipline. Some have argued that we should limit our proposal to trade-related investment measures only, such as trade distorting export performance requirements and local content requirements.

-- We are continuing an intensive effort to build support for the inclusion of the broad investment issue in the new round, but given the opposition to date, this is an issue that may not be resolved until the ministerial meeting in September.

## **6. Trade in Services**

-- The U.S. has strongly advocated the development of international disciplines over the fastest growing segment of our domestic economy and export trade, that of trade in services. Our major trading partners joined us in calling for the inclusion of services in the new round at both the OECD Ministerial and the Tokyo Economic Summit. In addition, a number of developing countries have expressed a willingness to include services as part of the new round. However, a core group of developing countries, led by Brazil and India, are acting as though they are determined that services will not be included in the negotiations.

-- We want to use the new round to establish, under the auspices of the GATT, a framework of principles and procedures, that will provide for the maximum opportunity for international transactions in services trade. These include national treatment, transparency of regulations, notification, role of monopolies, and dispute settlement.

-- Consensus on the broad principles should enable us to identify concrete applications through the development of sector-specific understandings. Work currently underway on the services

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portion of the U.S.-Israeli Free Trade Agreement may serve as a useful model for the multilateral exercise.

#### 7. Trade in High Technology Products

-- High technology is an increasingly vital component of American production. We have decided that separate negotiations on a "high technology code" are not the best nor the broadest approach to address the wide-range of trade challenges facing high technology industries. We have changed only our approach, not our objectives.

-- We will factor in high technology considerations, and the industrial targetting strategies they often encourage, as we negotiate in such areas as dispute settlement, government procurement, standards, subsidies, intellectual property protection, and tariffs.

#### 8. Worker Rights

-- Just as high technology considerations are important to many areas of the negotiations, so too are worker rights. We should ensure that trade expansion is not an end in itself, but that it benefits all workers in all countries.

-- In opposing an amendment to make denial of "internationally recognized worker rights" an "unreasonable" practice in Section 301 cases, the Administration has stated that worker rights questions are better pursued in the new round. Unless we make a credible effort in the GATT, it will be difficult to forestall legislative initiatives on the Hill.

-- We have told our trading partners that worker rights should be considered in the new round in some form. While we have not yet proposed any particular negotiating approach, an appropriate start would be to examine worker rights in light of GATT articles and the overall objectives of the GATT. So far, no other country has supported our effort, as they believe worker rights is beyond the scope of the GATT.

#### 9. Market Access

-- An essential part of the negotiations is to substantially reduce barriers, both tariff and non-tariff, to our access to foreign markets. Competitive American firms need better access to foreign markets in order to take advantage of the lower value of the dollar and increase export sales.

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-- Our private sector advisors have already begun to identify a number of areas where foreign tariffs remain a significant barrier to trade -- in such diverse areas as carpeting, ferrous and non-ferrous metals, furniture, chemicals, paper, telecommunications, and agriculture. We will similarly have to reduce some of our own tariffs.

-- Another area where tariff negotiations are necessary is to get commitments from developing countries to "bind" their tariffs under GATT rules so that they are not free to increase them without justification.

-- With regard to non-tariff barriers, we seek total elimination of GATT illegal quantitative restrictions, without concessions by other trading partners. We also seek the progressive phase-out of quantitative restrictions maintained under GATT rules. This includes the U.S. Section 22 waiver on agricultural products and the MFA. In addition, we seek to reduce the trade-distorting effects of other non-tariff barriers.

#### 10. Strengthening the GATT as an Institution

-- An important area of the negotiations will be to develop ways to improve the functioning of the GATT system and to strengthen the GATT as an institution that is viable, credible and responsive to the changing conditions of international trade and the trading community.

-- Specifically, we seek:

o some specific improvements in the procedures of the dispute settlement process to ensure that countries have every opportunity to resolve their differences effectively and in a timely manner. It makes little sense to improve the trading rules without also improving the enforcement mechanism.

o other improvements in the functioning of the system, including greater ministerial involvement, improved and strengthened notification and surveillance requirements, and an enhanced "steering" mechanism to guide GATT operations.

**SECRET**

**CONFIDENTIAL****JUN 9 1986****MEMORANDUM FOR THE ECONOMIC POLICY COUNCIL****FROM: President's Strike Force on Trade****SUBJECT: Strike Force Recommendations**

The Strike Force unanimously approved the recommendations summarized below. Background papers based on the detailed issue papers approved by the Strike Force are attached.

**Taiwan Insurance**

In order to get Taiwan to provide U.S. insurers with national treatment, the U.S.G. should initiate special consultations with Taiwan under the mantle of the GSP process. Such consultations were requested and agreed to by Taiwan at the April GSP review. The Strike Force recommends continuing on the current course and reviewing progress at the end of the third quarter.

**Trade-Related Performance Requirements (TPRs)**

In order to develop an international discipline on TPRs in the new round, the U.S.G. should make our trade and investment partners aware of our concerns, with a view towards bringing these countries to the negotiating table.

The U.S.G. should initiate actions to discourage the further proliferation of TPRs including: closely monitoring actions of our trading partners and making clear our intention to take action as appropriate against new requirements, including use of section 307 of the 1984 Trade and Tariff Act.

Washington agencies should develop plans by September for the elimination of existing TPRs. Priority countries for such plans include: Brazil, Mexico, Taiwan, and India.

The Administration should issue a policy statement on TPRs that makes clear its opposition to TPRs and its strategies of seeking international discipline in the new round and bilateral actions. The Strike Force has prepared a draft statement. (Attached)

**Latin American Pharmaceutical/Intellectual Property Rights Issues**

For Brazil, which has the most egregious pharmaceutical practices, the U.S.G. should initiate consultations on all intellectual property rights issues including pharmaceuticals as well as consultations on other pharmaceutical issues. The Strike Force should review these consultations at the beginning of October, 1986.

For Argentina, Chile, Mexico, and Venezuela, the U.S.G. should, where the pharmaceutical problems involve intellectual property rights, initiate consultations on overall intellectual property rights issues. The U.S.G. should also initiate consultations on other pharmaceutical concerns in conjunction with the intellectual property rights consultations.

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JUN 9 1986

BARRIERS TO INSURANCE IN TAIWANISSUE

Taiwan severely restricts access to its insurance market and denies national treatment for U.S. insurers.

BACKGROUND

The 1978 U.S.-Taiwan trade agreement stated that U.S. insurance firms were to be permitted to open branch offices in Taiwan. Their operations were to be restricted to insuring only U.S. citizens or 100% U.S.-owned companies.

A USTR side letter to the 1978 agreement made clear that U.S. acceptance of the agreement was based on the expectation that Taiwan would relax these restrictions and move toward national treatment for U.S. insurance companies.

After much prodding by the AIT and the AMCHAM, the Ministry of Finance finally implemented the 1978 commitment on insurance in 1981. Because of the severe restrictions placed on U.S. insurers under the 1978 agreement, however, U.S. companies with branches in Taiwan report underwriting little business.

The U.S. reopened the insurance issue in 1985. During the October 1985 economic consultation between AIT and CCNAA, the U.S. sought:

- o as a first step, permission for U.S. insurers to issue marine and property insurance in 1985 for joint venture in which foreigners have equity participation, and
- o a timetable for full national treatment.

Although the U.S. made significant progress on the first objective, CCNAA provided no timetable for further liberalization.

Preliminary GSP consultations were held in December 1985. During general review follow-up consultations April 30, Taiwan agreed to a U.S. request to hold special bilateral consultations on insurance in July 1986 so as to reach a specific understanding by December 1986 on steps to achieve full national treatment for U.S. insurance companies in Taiwan.

OPTIONS CONSIDERED

In addition to the GSP review and special consultations, the Strike Force considered the possibility of a 301 action. While a 301 action could be justified, it was felt that consultations would probably be effective and should be tried before taking stronger action.

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**TRADE RELATED PERFORMANCE REQUIREMENTS****ISSUE**

Trade Related Performance Requirements (TPRS) are a serious and growing problem. They are especially prevalent in NICs and developing countries but also exist in developed countries. TPRS, e.g. to export, to transfer technology or to source locally, whether imposed as a condition for the right to invest or as a precondition for receiving certain subsidies or benefits, can distort international trade and investment flows.

**BACKGROUND**

Currently there is no binding international agreement or discipline with respect to TPRS with the limited exception of a finding under GATT article 23 that local content requirements are a violation.

Reducing or eliminating TPRS is complicated by the presence of existing U.S. investment made in conformity with such requirements. Abrupt withdrawal of such requirements may simply open the way to foreign competition not encumbered by the need to meet an export or local content requirement.

The basic strategy of the United States has been to seek a multilateral discipline on investment including TPRS in the New Round. Both to support this strategy and to deal directly with TPRS the United States has available mechanisms to act on a bilateral basis to prevent the further proliferation of TPRS and to eliminate existing ones.

The tools available include: bilateral consultations, GSP review, section 307 of the Trade Act of 1984, section 301 and GATT.

Section 307 gives the USTR authority to consult and impose import restrictions on countries with export performance requirements. In order to act, the USTR must show that there is an adverse impact on the economic interests of the United States. Section 301 can also be used against performance requirements. The GATT action could be useful for dealing with local content but its effectiveness is limited by the wide range of exceptions provided to LDCs.

The U.S.G. is on record in the 1983 Investment Policy Statement as opposing TPRS, but has taken few actions against TPRS. The recent decision to use section 307 against Taiwan was the first use of that authority and one of the few times the U.S. has taken an aggressive position on TPRS.

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May 30, 1986

**POLICY STATEMENT ON TRADE-RELATED PERFORMANCE REQUIREMENTS**

In 1983, the President released a major statement on international investment. That statement enunciated the fundamental premise of U.S. government policy -- that foreign investment flows which respond to private market forces will lead to more efficient international production, and thereby benefit both home and host countries.

It also highlighted three other important points. First, the statement highlighted the concern with the increasing use of governmental measures to distort or impede international investment flows. Secondly, it underlined U.S. Government support for the concept of national treatment which extends to foreign investors treatment at least as favorable as that extended to domestic investors. And finally, the statement specified the multilateral and bilateral steps the Administration has taken, and will take, to help liberalize international investment flows.

Measures which distort or impede investment flows include trade-related performance requirements, fiscal or financial incentives, and discriminatory treatment of foreign investment. The 1983 statement provides that the United States reserves the right to take action against countries which use performance requirements and similar policies.

Examples of trade-related performance requirements are local content requirements and export performance requirements. Local content requirements artificially displace imports, much as import quotas do. Export performance requirements like export subsidies can artificially increase the supply of products in world markets, often at the expense of home country production and exports. The effects of these performance requirements are direct and identifiable: these requirements distort trade and investment flows. These harmful effects result whether the requirements are placed on foreign investors from the United States or third countries.

The United States' objectives are to prevent the further spread of these requirements, and to seek their reversal. The primary United States strategy is to establish multilateral discipline for such requirements as well as address other investment issues, through the upcoming trade round negotiations.

The impact of trade-related performance requirements on trade is identical to the impact of practices which are already explicitly covered by international trade rules. Accordingly, the disciplines which emerge should be consistent with the treatment the international trade rules give to the practices they mirror.

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In addition to this multilateral approach, the United States is also proceeding on a bilateral basis. One element of the United States' bilateral strategy is to discourage the further proliferation of trade-related performance requirements. The United States, through its embassies and contacts with private business, will monitor carefully the policies of other countries to determine if new or expanded trade-related performance requirements are proposed.

A second element of the United States' bilateral strategy is directed at reducing and/or eliminating existing trade-related performance requirements. The United States has been discussing trade-related performance requirements with countries having such requirements, including in the context of the GSP review.

The Overseas Private Investment Corporation (OPIC) has recently taken steps to support of the U.S. government's bilateral approach to trade-related performance requirements. OPIC is tightening the Corporations Policy guidelines with respect to performance requirements imposed on OPIC assisted U.S. investment.

To deal specifically with export performance requirements, the United States has available, in addition to other trade policy instruments, section 307 of the Trade and Tariff Act of 1984. Under that provision, when the USTR, with interagency advice, concludes that a country's EPRs adversely affect the economic interests of the United States, it may undertake consultations or negotiations aimed at reducing or eliminating the EPRs. In addition, the USTR may impose import restrictions on products and services of a country having EPRs which adversely affect the United States. Restrictions would not be placed on goods or services of U.S. foreign investments made prior to the 1984 Act.

We intend to use section 307 authority and other tools as appropriate in pursuing our objectives with respect to trade-related performance requirements.



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June 9, 1986

LATIN AMERICAN PHARMACEUTICALS/INTELLECTUAL PROPERTY RIGHTS

The Strike Force originally considered these issues separately, but the final recommendations treat them as one issue.

Latin American PharmaceuticalsISSUE

Unfair and restrictive trade and investment practices by Argentina, Brazil, Chile, Colombia, Mexico, and Venezuela impair the interests of the U.S. pharmaceuticals industry. U.S. pharmaceutical companies claim that these practices undermine the viability of their investments and erode possibilities for future growth.

BACKGROUND

The United States has a world trade surplus in pharmaceuticals. Annual exports to the six Latin American countries were approximately \$200 million. Brazil is the largest Latin American market, and has the largest potential for future U.S. pharmaceutical sales. Foreign investors, the majority of whom are U.S. firms, provide the overwhelming majority of pharmaceutical production in the six countries.

The potential for U.S. exports and investments is increasingly diminished because of unfair and restrictive trade and investment practices, including lack of intellectual property rights (IPR) protection, price controls, import restrictions and market reserve policies. Of these, lack of IPR protection is of the greatest concern to U.S. industry.

The six Latin American governments in question have long shared common misgivings about the role of multinational investors; both the public and private sectors view MNCs as exploitative and any USG trade action regarding this issue is likely to engender a strong public backlash. Brazil, which is one of the most egregious offenders, has been unresponsive to USG requests for greater equity in its pharmaceutical policy. Because Brazil is the largest pharmaceutical market in Latin America, action taken against it could have the greatest impact on regional efforts regarding pharmaceuticals.

OPTIONS CONSIDERED

The Strike Force agreed that a coordinated strategy covering all six Latin American countries would be more effective than dealing with each nation independently. Brazil is the critical country; it is the largest market and the country of greatest concern. Three options were identified for Brazil; these approaches could be taken in concert with consultations with the other five countries.

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1. Initiate Bilateral Consultations on Pharmaceuticals with Brazil;
2. Self-initiate a Section 301 action against Brazil; or
3. Initiate consultations with Brazil on Pharmaceuticals and take separate action on Brazil intellectual property rights.

The Strike Force recommended Option Number 3 for two reasons: 1) the primary problem in the pharmaceutical area is lack of adequate patent protection; and 2) addressing the pharmaceutical issue through action on IPR would avoid the likely adverse political reaction to strong U.S. action on pharmaceuticals.

For the other five countries the Strike Force decided that it would be more effective and less confrontational to initiate consultations on all intellectual property rights issues, not just those relating to pharmaceuticals. This would make the recommendations for the other five countries consistent with those for Brazil.

#### Brazil: Intellectual Property Rights

##### ISSUE

Inadequate protection of intellectual property rights threatens U.S. competitiveness in Brazil.

##### BACKGROUND

U.S. industry seeks: explicit copyright protection for computer software; increased GOB enforcement of its IPR laws; patent protection for pharmaceuticals and their processes; unencumbered protection for trademarks; and a less arbitrary patent licensing system.

While we have not yet held special consultations with Brazil on our IPR concerns, since 1983 the USG has consistently raised IPR issues during Sub Group and Investment Working Group consultations with the GOB to no avail. In addition, IPR is an ongoing item in our GSP consultations with Brazil. U.S. officials have visited Brazil to explain the IPR protection requirements of the GSP renewal program.

##### OPTIONS CONSIDERED

The Strike Force considered three basic options:

- o Consultations
- o Section 305
- o Section 301

Because of the lack of a past history of specific IPR consultations and the current situation with the informatics 301, the Strike Force decided it was premature to consider a 301 action at this time.

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